



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Blakesley *et al.*

Appl. No. 09/903,864

Filed: July 13, 2001

For: **Methods and Compositions for
Rapid Protein and Peptide
Extraction and Isolation Using a
Lysis Matrix**

Confirmation No. 9639

Art Unit: 1653

Examiner: Mohamed, A.

Atty. Docket: 0942.5050002/RWE/ALS

Reply To Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated August 25, 2003, requesting an election of one invention to prosecute in the above-referenced patent application, Applicant hereby provisionally elects to prosecute the invention of Group I, represented by claims 1-20. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

Traversal of the Restriction Requirement

This election is made **with** traverse. The criteria for a proper requirement for restriction are that (1) the inventions must be independent or distinct as claimed; *and* (2) there must be a serious burden on the Examiner if restriction is not required. MPEP § 803 (emphasis added). It should be noted that the two requirements set forth in MPEP § 803 are connected with "and." Hence, satisfaction of both criteria is required.

Applicants respectfully assert that the Examiner has not satisfied the second criteria. Groups I and II are related in subject matter. As such, a search of one group of

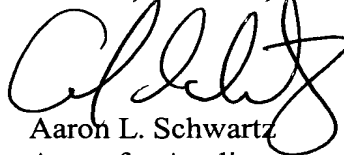
claims is likely to encompass subject matter pertinent to the patentability of the other group. Moreover, groups I and II have both been classified by the Examiner in class 435.

The Examiner has also not shown by appropriate explanation any of the three reasons supporting a serious burden if restriction were not required, as set forth in MPEP § 808.02. A serious burden therefore has not been established, and "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP § 803. Hence, reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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Date: October 14, 2003

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